

MICHIGAN EDUCATION TRUST ACT (EXCERPT)
Act 316 of 1986

390.1428 Termination of advance tuition payment contract; refund.

Sec. 8. (1) An advance tuition payment contract shall authorize a termination of the contract when any 1 of the following occurs:

- (a) The qualified beneficiary dies.
- (b) The qualified beneficiary is not admitted to a state institution of higher education after making proper application.
- (c) The qualified beneficiary certifies to the trust that he or she has decided to attend and has been accepted by a Michigan independent, degree-granting institution of postsecondary education recognized by the state board of education or, after he or she has a high school diploma or has reached the age of majority, he or she has decided not to attend a state institution of higher education and requests, in writing, before July 15 of the year in which the qualified beneficiary desires to terminate the contract, that the advance tuition payment contract be terminated.
- (d) Other circumstances, determined by the trust and set forth in the advance tuition payment contract, occur.

(2) Except as provided in section 7(2)(b) and (3)(b) and subsection (5), an advance tuition payment contract shall provide for a refund upon termination of the contract to a person to whom the refund is payable under the contract. All of the following apply to the refund described in this subsection:

(a) If the qualified beneficiary has a high school diploma or has reached the age of majority, and attends an institution of higher education, the amount of a refund, except as provided in subsection (4), is the lesser of the average tuition cost of all state institutions of higher education on the date of termination of the contract, or the face amount of the payment or payments and any accrued investment income attributable to the payment or payments, if he or she is covered by the first alternative described in section 7(5), or the lowest tuition cost of all state institutions of higher education on the date of termination of the contract if he or she is covered by the second alternative described in section 7(5) or does not attend an institution of higher education.

(b) The amount of a refund shall be reduced by an appropriate percentage if the purchaser entered into an advance tuition payment contract that provided for a fixed number of credit hours less than the total number of credit hours required by a state institution of higher education for the awarding of a baccalaureate degree, by the amount transferred to a community or junior college on behalf of a qualified beneficiary when the contract is terminated as provided in section 6(4), and by the amount transferred to a state institution of higher education on behalf of a qualified beneficiary.

(c) The contract may provide that the trust may deny payment of a refund upon termination of the contract if the qualified beneficiary has completed more than 1/2 of the credit hours required by the state institution of higher education for the awarding of a baccalaureate degree. However, this subdivision shall not affect the termination and refund rights of a graduate of a community or junior college.

(d) Except as provided by subsection (3), the trust shall make refund payments in equal installments over 4 years and not later than August 15 of the year due.

(3) An advance tuition payment contract shall authorize a person, who is entitled under the advance tuition payment contract to terminate the contract, to direct payment of the refund to an independent degree-granting college or university located in this state or to a community or junior college located in this state. If directed to make payments pursuant to this subsection, the trust shall transfer to the designated institution an amount equal to the tuition due for the qualified beneficiary, but the trust shall not transfer a cumulative amount greater than the refund to which the person is entitled. If the refund exceeds the total amount of transfers directed to the designated institution, the excess shall be returned to the person to whom the refund is otherwise payable.

(4) Notwithstanding any other section of this act, the amount of a refund paid upon termination of the advance tuition payment contract by a person who directs the trust pursuant to subsection (3) to transfer the refund to an independent degree-granting college or university located in this state shall not be less than the prevailing weighted average tuition cost of state institutions of higher education for the number of credit hours covered by the contract on the date of termination. In calculating the amount of a refund for an advance payment contract containing the restrictions provided by section 7(5), the prevailing weighted average tuition cost shall be based upon only those state institutions of higher education at which the qualified beneficiary could have received sufficient credit hours for a baccalaureate degree.

(5) The trust may offer an advance tuition payment contract that does not provide for a refund under subsection (2) to a purchaser who is an individual, state or local government agency or instrumentality, or a

person exempt from taxation as an organization described in section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, and who is purchasing the contract as part of a scholarship program. The price of a contract offered pursuant to this subsection shall be established to reflect that the terms of the contract do not provide for a refund.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986;—Am. 2004, Act 388, Imd. Eff. Oct. 12, 2004.